

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
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Applications by Qwest Communications,)	
International, Inc., <i>et al.</i>)	WC Docket No. 02-314
For Authorization to Provide In-Region,)	
InterLATA Services in Colorado, Idaho,)	
Iowa, Montana, Nebraska, North Dakota,)	
Utah, Washington and Wyoming)	
)	

**REPLY COMMENTS OF
Level 3 Communications, LLC**

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October 25, 2002

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Level 3 Communications, LLC (Level 3) submits these reply comments to further document Qwest Communications, International, Inc.'s (Qwest's) failure to meet the requirements of the section 271 competitive checklist. The supplemental material show that Qwest's application is deficient because Qwest fails to provide interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).

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the facilities as they are used to originate such traffic.¹ Contrary to Qwest's claims, FCC Rule 51.703(b)'s plain language prohibits Qwest from charging Level 3 for traffic originating on Qwest's network—including payments from Level 3 to Qwest for trunks and facilities on the Qwest side of the point of interconnection (POI) used to handle such originating traffic.²

Level 3 submits with these reply comments three documents in support of its argument that the Commission rules require Qwest to bear the cost of facilities to deliver traffic originated by its end-user customers to the POI with Level 3. These documents include the following :

- Post Hearing Letter Brief submitted by the Minnesota Office of Attorney General recommending that the Administrative Law Judge adopt the contract language proposed by Level 3 for the interconnection agreement at issue.³
- Level 3's Reply to Oppositions to Motion for Summary Judgment, United States District Court for the District of Oregon, CV. 01-1818-PA (filed October 18, 2002).⁴
- Level 3's Reply to Response Briefs in Opposition to Plaintiff's Motion for Summary Judgment, United States District Court for the District of Colorado, Civil Action No. 01-N-2455 (CBS) (filed October 25, 2002).⁵

¹ See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, 15608 at ¶209 (1996) (*Local Competition Order*); see also *TSR Wireless, LLC et al. V. U S West Communications, Inc. et. al*, File Nos. E-98-13, E-98-15, E-98-17, E-98-18, Memorandum Opinion and Order, FCC Rcd 11166, 11186 at ¶34 , n15 (2000) (*TSR Wireless Order*).

² FCC Rule 51.703(b) states that “[a] LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC’s network.” 47 C.F.R. § 51.703(b).

³ See Appendix A, Post Hearing Letter Brief from Linda S. Jensen, Assistant Attorney General, State of Minnesota to Kathleen Sheehy, Administrative Law Judge, Minnesota Public Utilities Commission, *In the Matter of the Petition of Level 3 Communications, LLC for Arbitration of an Interconnection Agreement With Qwest Corporation Pursuant to 47 U.S.C. § 252(b)*, PUC Docket No. P5733, 421/IC-02-1372: OAH Docket No. 3-2500-15076-2.

⁴ See Appendix B.

⁵ See Appendix C.

Each of these documents sets out conclusive legal arguments in support of Level 3's contention that the FCC's rules prohibit a LEC from charging other telecommunications carriers for origination of traffic on the LEC's network, including ISP-bound traffic. Although these documents are from specific state proceedings, Qwest has remained firm in its unlawful application of the Commission's interconnection rules throughout its interconnection negotiations and arbitration proceedings in each of its in-region states.

Qwest has failed to make the requisite statutory showing required before the Commission can grant Qwest's section 271 applications for authority to provide in-region interLATA services. The Commission must require Qwest to remedy its violation of competitive checklist item (i) by ceasing its attempts to force Level 3 to bear the full cost of Qwest facilities used to carry calls from Qwest customers to ISPs on Level 3's network.

Respectfully Submitted,

S/ [filed electronically]

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